

MATTER OF VARELA
In Visa Petition Proceedings

A-19184691

Decided by Board February 6, 1970

Visa petition to accord beneficiary immediate relative status was properly denied since upon the death of the United States citizen petitioner, beneficiary was no longer the spouse of a citizen and, hence, not entitled to status as an immediate relative.

ON BEHALF OF PETITIONER:

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This case is before us on appeal from a decision rendered by the District Director at San Francisco on August 25, 1969, denying the petition because of the petitioner's demise. The appeal will be dismissed.

There is no dispute as to the basic facts of this matter. The petitioner acquired United States citizenship through naturalization in 1943. On June 23, 1969, in Reno, Nevada, he married the beneficiary, a native and national of the Republic of the Philippines. On July 9, 1969, he submitted a petition to have the beneficiary classified as an immediate relative for issuance of an immigrant visa. This petition was received by the Service on the following day, July 10, 1969. In the same month the petitioner, a petty officer in the United States Naval Reserve, was recalled to active duty. On August 2, 1969, while still on active duty, he died of a heart attack.

Obviously, the only issue presented for our consideration is whether the District Director properly denied the visa petition on the ground that, with the death of the petitioner, the beneficiary